

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 40.131

permit shall continue in effect pending final action with respect to such application.

(72 Stat. 1421, 1422; 26 U.S.C. 5712, 5713, 5721, 5722)

[T.D. 6871, 31 FR 33, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

### CHANGES IN LOCATION OF FACTORY

#### § 40.111 Change in location within same region.

Whenever a manufacturer of tobacco products intends to relocate his factory within the same region, the manufacturer shall, before commencing operations at the new location, make application on Form 2098 for, and obtain, an amended permit. The application shall be supported by an extension of coverage of bond in accordance with the provisions of § 40.137.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

#### § 40.112 Change in address.

Whenever any change occurs in the address, but not the location, of the factory of a manufacturer of tobacco products, as a result of action of local authorities, the manufacturer shall, within 30 days of such change, make application on Form 2098 for an amended permit.

(72 Stat. 1421; 26 U.S.C. 5712)

#### § 40.113 Change in location to another region.

Whenever a manufacturer of tobacco products intends to remove his factory to another region, the manufacturer shall, before commencing operations at the new location, qualify as such a manufacturer in the new region, in accordance with the applicable provisions of subpart E of this part. The manufacturer shall notify the regional director (compliance) for the region from which he is removing his factory of his qualification in the new region, giving the address of the new location of his factory and the number of the permit issued to him in the new region, make a concluding inventory and concluding report in accordance with the provisions of §§ 40.201 and 40.202, respectively, and surrender the permit for his

old location with such inventory and report.

(72 Stat. 1421, 1422; 26 U.S.C. 5711, 5712, 5713, 5721, 5722)

#### § 40.114 Extension or curtailment of factory.

Where a tobacco products factory is to be changed to an extent which will make inaccurate the description of the factory as set forth in the last application by the manufacturer for permit, on the diagram, if any, furnished with such application, the manufacturer shall first make an application on Form 2098 for, and obtain, an amended permit. Such application shall describe the proposed change in the factory and shall be accompanied by a new diagram if required under the provisions of § 40.69.

(72 Stat. 1421; 26 U.S.C. 5711, 5712)

## Subpart G—Bonds and Extensions of Coverage of Bonds

### § 40.131 Corporate surety.

(a) Surety bonds required under the provisions of this part may be given only with corporate sureties holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds. Each bond and each extension of coverage of bond shall at the time of filing be accompanied by a power of attorney authorizing the agent or officer who executed the bond to so act on behalf of the surety. The regional director (compliance) who is authorized to approve the bond may, whenever he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or extension of coverage of bond. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed document it shall be accompanied by a certificate of its validity. Limitations concerning corporate sureties are prescribed by the Secretary in Treasury Department Circular No. 570, as revised. The surety shall have no interest whatever in the business covered by the bond.

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(b) Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies) is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(61 Stat. 649, 72 Stat. 1421, as amended; 31 U.S.C. 9304, 9306; 26 U.S.C. 5711; 5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. 6961, 33 FR 9488, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-92, 46 FR 46921, Sept. 23, 1981]

### § 40.132 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety the manufacturer of tobacco products may pledge and deposit, as security for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225.

(61 Stat. 650, 72 Stat. 1421; 6 U.S.C. 9301, 9303; 26 U.S.C. 5711)

### § 40.133 Amount of individual bond.

The amount of the bond of a manufacturer of tobacco products shall be not less than the total amount of tax liability on all tobacco products manufactured in his factory, received in bond from other factories and from export warehouses, and released to him in bond from customs custody, during any calendar month. Where the amount of any bond is no longer sufficient and the bond is in less than the maximum amount, the manufacturer shall immediately file a strengthening or superseding bond as required by this subpart. The amount of any such bond (or the total amount including strengthening bonds, if any) need not exceed \$250,000 for a manufacturer producing or receiving cigarettes in bond; need not exceed \$150,000 for a manufacturer producing or receiving cigars, smokeless tobacco, pipe tobacco, or roll-your-own tobacco in bond; and need not exceed \$250,000 for a manufac-

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turer producing or receiving any combination of tobacco products in bond. The bond of a manufacturer of tobacco products shall in no case be less than \$1,000.

[T.D. ATF-232, 51 FR 28080, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-289, 54 FR 48839, Nov. 27, 1989; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

### § 40.134 Amount of blanket bond.

In the case of a blanket bond filed under the provisions of § 40.67, where the total amount of individual bonds otherwise required for the factories under § 40.133 does not exceed \$250,000, such blanket bond shall be not less than the total amount of such individual bonds. Where the total amount of such individual bonds required is in excess of \$250,000 but not in excess of \$500,000, the amount of the blanket bond shall be not less than \$250,000 plus 50 percent of such total amount which is in excess of \$250,000. Where the total amount of such individual bonds required is in excess of \$500,000 the amount of the blanket bond shall be not less than \$375,000 plus 25 percent of such total amount which is in excess of \$500,000.

(72 Stat. 1421; 26 U.S.C. 5711)

### § 40.135 Strengthening bond.

Where the amount of any bond is no longer sufficient under the provisions of § 40.133 or § 40.134, the manufacturer shall immediately file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, unless a superseding bond is filed pursuant to § 40.136. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full amount.

(72 Stat. 1421; 26 U.S.C. 5711)

### § 40.136 Superseding bond.

A manufacturer of tobacco products shall immediately file a new bond to supersede his current bond when

(a) The corporate surety on the current bond becomes insolvent,